

Terrorism: World Trade Center and the Pentagon – Applicable Federal Criminal Law

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Summary

The death and destruction associated with the hijacking of four commercial airliners constitute federal crimes that outlaw air piracy, murder, and kidnapping. Relevant statutes carry the death penalty and apply to any accomplices or coconspirators here or abroad.

Federal criminal law outlaws air piracy and host of other terrorist-related crimes. Those who commit the crimes, those who conspire for their commission, and those who command, aid, or abet their commission face severe penalties up to and including the death penalty. State criminal laws supply parallel coverage.

On September 11, 2001, four commercial airliners were hijacked. Two crashed into the World Trade Center towers; one into the Pentagon; and a fourth in Pennsylvania. Casualties number in the thousands.

Applicable federal laws and penalties include at least:

- 49 U.S.C. 46502 (air piracy, including attempt or conspiracy to commit air piracy) punishable by death or life imprisonment where death results
- 18 U.S.C. 32 (destruction of U.S. commercial aircraft) punishable by death or life imprisonment where death results, 18 U.S.C. 34
- 18 U.S.C. 1114 (1st degree murder of federal employees or members of the United States armed forces) punishable by death or life imprisonment
- 18 U.S.C. 1117 (conspiracy to murder federal employees or members of the United States armed forces) punishable by imprisonment for life or any term of years
- 18 U.S.C. 844(f) (destruction of a federal building by fire or explosive) and 844(i) (destruction by fire or explosive of a building used in an activity affecting interstate commerce) punishable by death or life imprisonment if death results
- 18 U.S.C. 1201 (kidnapping committed in the course of air piracy) punishable by death or life imprisonment if death results
- 18 U.S.C. 371 (conspiracy to violate federal law) punishable by imprisonment for not more than 5 years (conspirators are also liable for crimes committed by others in furtherance of the conspiracy, *Pinkerton v. United States*, 328 U.S. 640, 646-48 (1946))
- 18 U.S.C. 2 (an accessory before the fact (accomplice), *i.e.*, one who “aids, abets, counsels, commands, induces or procures” the commission of a federal crime by another is treated as a principal and is punished as if he himself had committed the crime).

The existence of multiple murder victims; the risk of death of others; the heinous nature of a murder; and the fact a murder occurred during the commission of air piracy, destruction of federal buildings or those whose activities affect interstate commerce, kidnapping, or destruction of commercial aircraft, are all aggravating factors which a jury may consider in determining whether the death penalty should be imposed on those guilty of federal capital offenses, 18 U.S.C. 3592(c)(16),(5),(6),(1).

Although the Eighth Amendment limits the circumstances under which capital punishment may be imposed upon one who does not actually commit the crime himself, it does permit execution of an accomplice who is a major participant in a crime and who evidences a reckless indifference to human life, *Tison v. Arizona*, 481 U.S. 137, 158 (1987).

Any overseas conspirators or accomplices remain subject to federal prosecution notwithstanding the fact that all of their misconduct may have occurred abroad, *Ford v. United States*, 273 U.S. 593, 623 (1927).

Author Information

Charles Doyle
Senior Specialist in American Public Law

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